



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

APR 28 2005

In reply refer to:
I-04/016053

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Royalties Policy (DSCA 05-12) [SAMM E-Change 30]

To clarify guidance on royalties, add the following paragraphs to DoD 5105.38-M, Security Assistance Management Manual (SAMM).

C9.4.6 Royalties. As a general rule, the FMS purchasers are treated similar to other Federal Agencies when assessing royalties to a purchase.


C9.4.6.1. Royalties for use of intellectual property that is not subject to contractor proprietary rights restrictions normally are not allowed to be collected on FMS cases. If the USG is required to pay a royalty to a contractor for intellectual property that is subject to contractor proprietary rights restrictions, then it is a legitimate charge to the FMS case and included in the end item price. In any situation where a royalty is being considered for collection against an FMS procurement, and the same royalty would not be collected against a U.S. Federal Agency procurement, the Implementing Agency should contact DSCA (Business Operations/Comptroller and Policy, Plans, and Programs Directorates) for guidance.

C9.4.6.2. FMS cases implemented prior to January 1, 1998, contained charges (referred to as royalty fees) for the use of technical data packages (TDPs) to be used to manufacture or produce items for non-USG use. These charges were reflected on a separate line on the LOA. For those FMS cases, financial accounting processes and reporting continue until case closure. Cases implemented on or after January 1, 1998, do not include royalty fees for use of TDPs that are not subject to contractor proprietary rights restrictions.

Revise SAMM Table C9.T2. as follows:

Charge	Description	How Priced	Applied by - for billing	References
Royalty	Incremental payments for the use of intellectual property	<ul style="list-style-type: none">- If required to be collected for intellectual property that is subject to contractor proprietary rights restrictions, include in the pricing of the item.- Prior to January 1, 1998, charges for TDP usage were included as a separate line item on the LOA.- Discontinued for cases implemented on or after January 1, 1998 for U.S.-owned TDPs that are not subject to contractor proprietary rights restrictions.	Implementing Agency	DOD FMR. Volume 15, Chapter 7, Table 701-1

This change will be included in the automated version of the SAMM found on the DSCA Web Page. If you have any questions concerning this change please contact Ms. Patti Higgins, DSCA/BUSOPS-FPS, 703-604-6570, e-mail patricia.higgins@dsc.mil or Mr. Steve Harris, DSCA/P3-P2, 703-604-6611, e-mail steve.harris@dsc.mil.



Keith B. Webster
Director
Business Operations

DISTRIBUTION LIST

DEPUTY ASSISTANT SECRETARY OF THE ARMY
FOR DEFENSE EXPORTS AND COOPERATION
DEPARTMENT OF THE ARMY
ATTN: SAAL-NP

DIRECTOR, NAVY INTERNATIONAL PROGRAMS OFFICE
DEPARTMENT OF THE NAVY

DEPUTY UNDER SECRETARY OF THE AIR FORCE
(INTERNATIONAL AFFAIRS)
DEPARTMENT OF THE AIR FORCE

DIRECTOR, DEFENSE LOGISTICS AGENCY

DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

DIRECTOR, DEFENSE THREAT REDUCTION AGENCY

DIRECTOR, DEFENSE REUTILIZATION AND MARKETING SERVICE

DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY

DIRECTOR, DEFENSE INFORMATION SYSTEMS AGENCY

DIRECTOR, DEFENSE LOGISTICS INFORMATION SERVICE

DEPUTY DIRECTOR FOR INFORMATION ASSURANCE,
NATIONAL SECURITY AGENCY

DIRECTOR FOR SECURITY ASSISTANCE,
DEFENSE FINANCE AND ACCOUNTING SERVICE -
DENVER CENTER

cc: USASAC
SATFA TRADOC
NAVICP
AFSAC
DISAM
STATE/PM-RSAT